

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS

IN RE:

**Tomas Barraza
Yolanda Porras**

Debtor(s)

§
§
§
§
§

CASE NO. 11-31316

Chapter 13 Proceeding

☐ **AMENDED** ☐ **MODIFIED**
DEBTOR(S)' CHAPTER 13 PLAN
AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE

Creditors are hereby notified that the following Plan may be amended at any time before confirmation. Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information advises creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the Office of the United States Bankruptcy Clerk in El Paso or Waco, Texas. Local Bankruptcy Rules and Standing Orders on procedures are available at the Clerk's Office and online at www.txwb.uscourts.gov.

Use of the singular word "Debtor" in this Plan includes the plural where appropriate.

Plan Summary

- A. The Debtor's plan payment will be \$ 2,097.00 per month, paid by ☐ Pay Order or ☒ Direct Pay, for 60 months. The gross amount to be paid into the plan is \$ 125,820.00.
- B. The Plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI below, and approximately 10 % of each unsecured allowed claim.

THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM BY THE APPLICABLE DEADLINE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS, AND THE APPLICABLE STANDING ORDER RELATING TO CHAPTER 13 CASE ADMINISTRATION FOR THIS DIVISION, FOR INFORMATION ON THESE AND OTHER DEADLINES.

- C. The value of the Debtor's non-exempt assets is 90,622.00.
- D. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in Section VI(1), set forth below.

Plan Provisions

I. Vesting of Estate Property

- ☐ Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.
- ☒ Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.
- ☐ Other (describe):

II. Pre-Confirmation Disbursements

In accordance with the applicable Standing Order Relating to Chapter 13 Case Administration, the Debtor requests and consents to disbursement by the Chapter 13 Trustee of payments prior to confirmation of the Plan to evidence the Debtor's good faith, promote successful completion of the case, and to provide adequate protection to secured creditors. The Debtor shall remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met and unless otherwise ordered by the Court, the Trustee shall begin disbursing to creditors as provided below, on the first regularly scheduled disbursement after 30 days after the petition is filed. Payments under this paragraph will cease upon confirmation of the Plan.

Creditor/Collateral	Pre-Confirmation Payment Amount	Other Treatment Remarks
-NONE-		

III. Executory Contracts/Unexpired Leases/Contracts for Deed

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Other Party	Description of Contract or Lease
Jim Garcia, Lessor	One year lease of 2224 Basset El Paso, Texas 79915 for commercial use as a bar beginning 8/10/10 @ \$800. month (Yolanda Porras Lessee)
Vicente Rodarte, Lessor	5 year lease of 3010 Pershing, El Paso, TX for commercial use. as a bar beginning 1/15/2009 @ \$1700.00 month (Debtors are Lessees

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Other Party	Description of Contract or Lease
-NONE-	

IV. Motion to Value Collateral Pursuant to 11 U.S.C. § 506

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI(2), hereof, plus interest thereon at the rate specified in this Plan. Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section VI(2)(F).

The Debtor(s) move(s) to value the collateral described below in the amounts indicated. The values as stated below represent the replacement values of the assets held for collateral, as required under Section 506(a)(2). Objections to valuation of collateral proposed by this Motion and Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely response or objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/ Remarks
Ford Motor Credit 2009 Ford F-150	39,573.00	24,460.00	Prorata	5.25	26,694.16	

*"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
Executed on July 26, 2011."*

/s/ Tomas Barraza

Tomas Barraza

Debtor

/s/ Yolanda Porras

Yolanda Porras

Co-Debtor

V. Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section VI (2)(F).

The Debtor moves to avoid the following liens that impair exemptions. Objections to lien avoidance as proposed in this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien--e.g. judicial lien, nonpurchase-money security interest, etc.)

Creditor	Property Subject to Lien	Amount of Lien to Be Avoided	Remarks
-NONE-			

VI. Specific Treatment for Payment of Allowed Claims

1. PAYMENTS TO BE MADE BY THE DEBTOR DIRECTLY TO CREDITORS. INCLUDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS

A. Debtor(s) shall pay the following creditors directly. Creditors with claims based on a post-petition domestic support obligation ("DSO"), including all governmental units to which a DSO claim has been assigned, or is owed, or that may otherwise recover a DSO claim, *must* be paid directly. Minors should be identified by their initials only. If no DSO creditor is listed, the Debtor represents he/she has no domestic support obligation.

All direct payments listed below shall be made in addition to the Plan payments made by Debtor to the Chapter 13 Trustee as herein set forth. Secured creditors who are paid directly shall retain their liens, and the Debtor(s) shall maintain insurance on the collateral, in accordance with the terms of the documents creating the lien on the collateral.

Creditor/Collateral, if any	Remarks	Debt Amount	Monthly Payment
El Paso Tax Assessor Collector 1667 Brian Ray, El Paso, TX	2012 and future ad valorem taxes OUTSIDE plan by escrow	0.00	0.00
GECU 1667 Brian Ray, El Paso, TX	OUTSIDE by debtor	18,755.00	696.00

B. Debtor surrenders the following collateral. Confirmation of the Plan shall operate to lift the automatic stay provided by 11 U.S.C. § 362(a) with respect to the collateral listed, and any unsecured deficiency claim may be filed in accordance with the procedures set forth in the Standing Order Relating to Chapter 13 Case Administration for this Division.

Creditor/Collateral	Collateral to be Surrendered
Ford Motor Credit 2009 Ford Expedition (co signer for 3rd party surrender interest	2009 Ford Expedition (co signer for 3rd party surrender interest

2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS

A. Administrative Expenses

Administrative Expenses shall include the Trustee's commission and debtor's attorney's fees. The Trustee shall receive up to 10% of all sums disbursed, except on any funds returned to the Debtor. No fees or expenses of counsel for the Debtor(s) may be paid until the filing fee is paid in full, and any fees and expenses that are allowed in addition to the fees and expenses originally agreed to be paid, may be paid only after all prior allowed fees and expenses have been paid.

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured creditors	Remarks
J. Todd Southern	3,200.00	As per standing order of Jan. 2007	Attorney Fees

B. Priority Claims, Including Domestic Support Obligation Arrearage Claims

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured creditors	Remarks
-NONE-			

C. Arrearage Claims

Creditor/Collateral	Estimated Claim	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/ Remarks
-NONE-						

D. Cure claims on Assumed Contracts, Leases, and Contracts for Deed:

Creditor/Subject Property, if any	Estimated Amount of Cure Claim	Monthly Payment or Method of Disbursement	Remarks
-NONE-			

E. Secured Creditors

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the date the underlying debt, as determined under non-bankruptcy law, has been paid in full, or the date of discharge under 11 U.S.C. § 1328. Therefore, if the Debtor's case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/ Remarks (specifically note if claim amount to be paid although greater than value of collateral)
El Paso Tax Assessor Collector 1667 Brian Ray, El Paso, TX	0.00	110,000.00	Prorata	12.00	0.00	2011 and any delinquent ad valorem taxes IN PLAN
Ford Motor Credit 2009 Ford F-150	39,573.00	24,460.00	Prorata	5.25	26,694.16	IN PLAN
Ford Motor Credit 2008 Ford F-150	25,887.00	14,075.00	Prorata	5.25	15,360.60	IN PLAN
Ford Motor Credit 2007 Lincoln LT	20,816.00	25,000.00	Prorata	5.25	22,717.29	IN PLAN
GECU 2004 Ford Mustang	3,823.00	5,500.00	Prorata	5.25	4,172.16	IN PLAN

F. General Unsecured Creditors (including claims from rejection of contracts, leases and contracts for deed).
Describe treatment for the class of general unsecured creditors.

Creditor	Estimated Amount of Debt	Remarks
	0.00	
*Ford Motor Credit	189.00	
*Ford Motor Credit	11,812.00	
*Ford Motor Credit	15,113.00	
American Express	3,044.00	
American Express	1,606.00	
American Express	6,270.00	
Best Buy/HSBC	1,943.00	
CitiFinancial	4,834.00	
Credit First NA/Firestone	1,212.00	
GE Capital	527.00	
GE Capital/ WalMart	5,421.00	
GE Money Bank	551.00	
GE Money Bank	6,233.00	
HSBC Bank	838.00	
HSBC Bank	806.00	
HSBC Bank Nevada	881.00	
Sams Club/ GE Money Bank	3,303.00	
Target National Bank	1,270.00	
West Bay Acquisitions	98.00	

*Indicates the unsecured portion of a Secured Claim, the nonpriority portion of a Priority Claim, or the full amount of an avoided Secured Claim.

Totals:

Administrative Claims	3,200.00
Priority Claims	0.00
Arrearage Claims	0.00
Cure Claims	0.00
Secured Claims	63,174.00
Unsecured Claims	65,951.00

VII. Supplemental Plan Provisions

The following are the Supplemental Plan Provisions:

Special Intentions:

Ford Motor Credit: Debtor is surrendering the Property to Creditor in full satisfaction of the secured claim. Creditor shall be allowed an unsecured claim for the deficiency balance owed.

1. Unless the plan is a full pay plan, all of the debtor's projected disposable income to be received in the three-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.
2. If any secured proof of claim is filed for a debt that was either not listed or listed as unsecured, the claim shall be allowed as secured unless it is objected to. Said claim shall be paid under the plan at 10% interest. Likewise, if any priority proof of claim is filed for a debt that was either not listed or listed as unsecured, the claim shall be allowed as priority unless it is objected to. Said priority claim shall not be paid with any interest.
3. The Debtor(s) further agree, to report to the Trustee any changes in income that would necessitate modifying their plan by either increasing or decreasing their plan payment or increasing or decreasing the percentage payout to unsecured creditors.
4. Confirmation of the Plan shall continue authority for creditors, such as lien-holders on real property and lien-holders on vehicles, especially where the creditor is scheduled as "direct pay" or "outside," to send monthly statements as a convenience to the Debtor(s) and such statement shall not be considered a violation of the provisions of the automatic stay.
5. **TAX REFUNDS:** The Debtor(s) will be allowed to retain any tax refund(s) received from Internal Revenue Service to be used for unforeseen emergencies during the life of the Plan.
6. **POST PETITION MORTGAGE PAYMENT:** Payments received by the holders or servicers of the mortgage claims for ongoing post petition installment payments shall be applied and credited to the debtors mortgage account as if the account were current and no pre-petition default existed on the petition date in the order of priorities specified in the note and security agreement and applicable non-bankruptcy law. Post petition installment payments made in a timely manner under the terms of the note shall be applied and credited without penalty.
7. **POST-PETITION PAYMENT CHANGES:** Holders and/or servicers of mortgage claims shall make adjustment to the ongoing installment payment amount as required by the note and security agreement and applicable nonbankruptcy law, including changes based on an escrow analysis for amounts required to be deposited in any escrow account or based on an interest rate provision in an adjustable-rate mortgage. Holders and/or servicers shall timely notify the debtors, debtors' attorney and trustee of such payment adjustments and any shortage, deficiency or surplus of funds in any escrow account.
8. **PRE-PETITION ARREARAGES:** Payments disbursed by the trustee to holders and/or servicers of mortgage claims shall be applied and credited only to the pre-petition arrearages necessary to cure the default, which shall consist of amounts listed on the allowed proof-of-claim and authorized by the note and security agreement and applicable non bankruptcy law. Holders and/or servicers of mortgage claims shall deem the pre-petition arrearages as contractually current upon confirmation of the plan.

9. MORTGAGE CURRENT UPON DISCHARGE: The holder and/or servicer of a mortgage claim shall provide to the debtors, debtor's attorney and trustee a notice of any fees, expenses or charges that have accrued during the bankruptcy case on the mortgage account and that the holder and/or servicer contends are (1) allowed by the note and security agreement and applicable non bankruptcy law, and (2) recoverable against the debtors or the debtor's account. The notice shall be sent annually, beginning within 30 days of the date one year after entry of the initial plan confirmation order, and each year thereafter during the pendency of the case.

Respectfully submitted July 26, 2011.

/s/ J. Todd Southern

J. Todd Southern 18862450

Attorney for Debtor

J. TODD SOUTHERN, Attorney at Law

5601 Montana Ste. A

El Paso, TX 79925

(915) 772-9032 Fax:(915) 772-0257

Address/Phone & Fax Number

/s/ Tomas Barraza

Tomas Barraza

Debtor

1667 Brian Ray Cir

El Paso, TX 79936

Address

/s/ Yolanda Porras

Yolanda Porras

Co-Debtor

1667 Brian Ray Cir

El Paso, TX 79936

Address

ATTACH PROPOSED PAYMENT SCHEDULE, IF AVAILABLE

**United States Bankruptcy Court
Western District of Texas**

In re **Tomas Barraza
Yolanda Porras**

Debtor(s)

Case No. **11-31316**
Chapter **13**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the attached Chapter 13 Plan was served on **7/06/11**, on the persons listed below and/or on the attached list, at the addresses listed, by the following method(s): **First class mail**.

/s/ J. Todd Southern
J. Todd Southern 18862450
Attorney for Debtor

To:

**Stuart C. Cox
Chapter 13 Trustee
1760 N. Lee Trevino
El Paso, Texas 79936**

American Express
P.O. Box 981537
El Paso, TX 79998

American Express
P.O. Box 981537
El Paso, TX 79998

American Express
P.O. Box 981537
El Paso, TX 79998

Best Buy/HSBC
P.O. Box 15524
Wilmington, DE 19850

CitiFinancial
300 Saint Paul Pl
Baltimore, MD 21202

Credit First NA/Firestone
P.O. Box 81315
Cleveland, OH 44181

El Paso Tax Assessor Collector
P.O. Box 2992
El Paso, TX 79999-2992

El Paso Tax Assessor Collector
P.O. Box 2992
El Paso, TX 79999-2992

Ford Motor Credit
c/o National Bankruptcy Service Center
P.O. Box 37901
Livonia, MI 48153-7901

Ford Motor Credit
c/o National Bankruptcy Service Center
P.O. Box 537901
Livonia, MI 48153

Ford Motor Credit
c/o National Bankruptcy Service Center
P.O. Box 537901
Livonia, MI 48153

Ford Motor Credit
P.O. Box 542000
Omaha, NE 68154

GE Capital
P.O. Box 965005
Orlando, FL 32896

GE Capital/ WalMart
P.O. Box 981400
El Paso, TX 79998

GE Money Bank
c/o Midland Credit Management
8875 Aero Dr
San Diego, CA 92123

**GE Money Bank
c/o Midlnad Credit Management
8875 Aero Dr
San Diego, CA 92123**

**GECU
P.O. Box 20998
El Paso, TX 79998**

**GECU
7227 Viscount Blvd
El Paso, TX 79925**

**HSBC Bank
P.O. Box 5253
Carol Stream, IL 60197**

**HSBC Bank
P.O. Box 5253
Carol Stream, IL 60197**

**HSBC Bank Nevada
c/o NCEP LLC
3715 Davinci Ct Ste 200
Norcross, GA 30092**

**Sams Club/ GE Money Bank
P.O. Box 965005
Orlando, FL 32896**

**Target National Bank
P.O. Box 673
Minneapolis, MN 55440**

**West Bay Acquisitions
c/o National Recovery Agency
2491 Paxton St
Harrisburg, PA 17111**
